



Early Journal Content on JSTOR, Free to Anyone in the World

This article is one of nearly 500,000 scholarly works digitized and made freely available to everyone in the world by JSTOR.

Known as the Early Journal Content, this set of works include research articles, news, letters, and other writings published in more than 200 of the oldest leading academic journals. The works date from the mid-seventeenth to the early twentieth centuries.

We encourage people to read and share the Early Journal Content openly and to tell others that this resource exists. People may post this content online or redistribute in any way for non-commercial purposes.

Read more about Early Journal Content at <http://about.jstor.org/participate-jstor/individuals/early-journal-content>.

JSTOR is a digital library of academic journals, books, and primary source objects. JSTOR helps people discover, use, and build upon a wide range of content through a powerful research and teaching platform, and preserves this content for future generations. JSTOR is part of ITHAKA, a not-for-profit organization that also includes Ithaka S+R and Portico. For more information about JSTOR, please contact support@jstor.org.

agreement so as to render it enforceable against them despite a plea of the statute of frauds; for the recital of their names was merely for purposes of identification (quoting Words and Phrases, Signature).

[Ed. Note.—For other cases, see Frauds, Statute of, Cent. Dig. § 250; Dec. Dig. § 115 (5).* 6 Va.-W. Va. Enc. Dig. 534.]

Appeal from Circuit Court, Russell County.

Bill by Lafayette Sutherland and wife against J. G. Munsey and another. From a decree sustaining a demurrer to the bill, complainants appeal. Affirmed.

W. W. Bird, of Lebanon, for appellants.

Burns & Kelly and *S. B. Quilen*, all of Lebanon, for appellees.

MUNCY *v.* UPDYKE.

Sept. 11, 1916.

[89 S. E. 884.]

1. Easements (§ 61 (8)*)—Obstruction—Pleading—Prescription.—Where the bill to enjoin the obstruction of a way alleged a state of facts which, if proven, showed that complainant was entitled to a way by prescription, it was not necessary to allege the conclusion of law that the facts constituted a way by prescription to entitle complainant to a hearing on the merits.

[Ed. Note.—For other cases, see Easements, Cent. Dig. §§ 141, 142, 144; Dec. Dig. § 61 (8); Pleading, Cent. Dig. § 1323.* 4 Va.-W. Va. Enc. Dig. 869.]

2. Easements (§ 61 (8)*)—Obstruction of Way—Pleading—Location.—A bill to enjoin the obstruction of a way claimed by prescription alleged complainant's right to the use of the "old Thompson road" and actual use of it for more than 10 years, during which he had repaired it, with the acquiescence of the owners of the land through which it passed; that such road was and always had been a private right of way incident to the "James Thompson land," and used as such by all owners of land lying between it and the public road, together with a reference to such road in deeds filed with the bill, though not alleging the bearings and distances, sufficiently located the road by marks of travel and by local tradition.

[Ed. Note.—For other cases, see Easements, Cent. Dig. §§ 141, 142, 144; Dec. Dig. § 61 (8); Pleading, Cent. Dig. § 1323.* 4 Va.-W. Va. Enc. Dig. 869.]

3. Easements (§ 61 (12)*)—Obstruction of Way—Decree—Certainty.—Where the only part of the way in controversy was a section between the middle of a creek and a public road over the land of the

*For other cases see same topic and KEY-NUMBER in all Key-Numbered Digests and Indexes.

defendant, a decree, describing the section as along the route of what was designated in the bill as the "old Thompson road" from the middle of the creek to the public road along a traveled route as indicated upon a map filed, with a deposition, was sufficient to enable any one going on the ground and making inquiry to determine the location and the easement; that being all that is required.

[Ed. Note.—For other cases, see Easements, Cent. Dig. § 148; Dec. Dig. § 61 (12); Pleading, Cent. Dig. § 1323.* 4 Va.-W. Va. Enc. Dig. 867.]

4. Easements (§ 7 (3)*)—Way—Prescription—Claim of Right.—Complainant in a bill to enjoin the obstruction of a way, showing that the way was a well-known and easily designated route that had been in continuous use as a private right of way by himself and others without any objection for more than 20 years, and that it was a necessary convenience as an outlet to a public road, showed such a use as would indicate to the owners of the servient estate that he was exercising it under a claim of right; such use for more than 20 years establishing the bona fides of the claim of right and requiring the owner to rebut it by showing permission, license, or objections, to such use.

[Ed. Note.—For other cases, see Easements, Cent. Dig. §§ 17, 27, 33; Dec. Dig. § 7 (3).* 4 Va.-W. Va. Enc. Dig. 857.]

5. Easements (§ 8 (4)*)—Way—Prescription — "Exclusive."—To constitute an exclusive use of a way it is not required that the claimant be the only one using it, but "exclusive" means that the use is a proprietary use and not a use by the public generally.

[Ed. Note.—For other cases, see Easements, Cent. Dig. §§ 27-33; Dec. Dig. § 8 (4).* 4 Va.-W. Va. Enc. Dig. 855.

For other definitions, see Words and Phrases, First and Second Series, Exclusive.]

Appeal from Circuit Court, Wythe County.

Bill for injunction by J. M. Updyke against Patton Muncy. Decree for complainant, perpetuating an injunction, and defendant appeals. Amended and affirmed.

Williams & Williams, of Wytheville, for appellant.

W. B. Kegley, of Wytheville, and *A. R. Porterfield*, of Bland, for appellee.

HUNTER-SMITH CO., Inc., v. GIBSON et al.

Sept. 11, 1916.

[89 S. E. 886.]

Landlord and Tenant (§ 168 (2)*)—Injury to Premises—Action for Damages—Negligence of Tenant.—A tenant on the street floor of

*For other cases see same topic and KEY-NUMBER in all Key-Numbered Digests and Indexes.